



0000169902

## BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

APR 22 2016

DOCKETED BY

K9

COMMISSIONERS

DOUG LITTLE – Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN

IN THE MATTER OF DIAL WORLD  
COMMUNICATIONS, LLC FOR APPROVAL OF  
AN APPLICATION FOR A CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
INTRASTATE TELECOMMUNICATIONS  
SERVICES.

DOCKET NO. T-20921A-14-0390

DECISION NO. 75531

ORDER

Open Meeting  
April 12 and 13, 2016  
Phoenix, Arizona

**BY THE COMMISSION:**

On November 14, 2014, Dial World Communications, LLC (“DWC”) filed with the Arizona Corporation Commission (“Commission”) an application for approval of a Certificate of Convenience and Necessity (“CC&N”) to provide resold long distance telecommunications services within the State of Arizona.

On December 19, 2014, DWC filed an Affidavit of Publication stating that notice of the application had been published in the *Arizona Republic*, a newspaper of general circulation in the State of Arizona.

On September 15, 2015, DWC filed an amendment to its application in which it updated information contained in section (A-11) to include current proceedings in which DWC is involved in North Carolina and Texas; section (A-12) to include details of a judgment and investigation involving DWC in California; and section (A-18) to clarify the locations in which DWC has an application to provide telecommunications services approved.

On September 16, 2015, DWC filed supporting documentation to its amendment filed on September 15, 2015 that had inadvertently been withheld.

On October 27, 2015, DWC filed a notice of change in representation.

On March 4, 2016, the Commission's Utilities Division ("Staff") filed a Staff Report recommending approval of DWC's application, subject to certain conditions.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

### **FINDINGS OF FACT**

1. DWC is a foreign limited liability company organized under the laws of Delaware and authorized to conduct business in Arizona.<sup>1</sup>

2. On November 14, 2014, DWC filed an application with the Commission to provide resold long distance telecommunications services on a statewide basis in Arizona. The application also requested a determination that DWC's proposed services are competitive in Arizona.

3. Notice of DWC's application was given in accordance with the law.

4. Staff recommends approval of DWC's application for a CC&N to provide intrastate telecommunications services in Arizona, subject to the following conditions:

- (a) DWC complies with all Commission Rules, Orders, and other requirements relevant to the provision of intrastate telecommunications services;
- (b) DWC maintains its accounts and records as required by the Commission;
- (c) DWC files with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
- (d) DWC maintains on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
- (e) DWC file with the Commission tariffs which state that it does not require deposits from its customers;
- (f) DWC complies with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between DWC's tariffs and the Commission's rules;
- (g) DWC cooperates with Commission investigations including, but not limited to customer complaints;
- (h) DWC participates in and contribute to the Arizona Universal Service Fund, as required by the Commission;

<sup>1</sup> Application at Exhibit A.

- (i) DWC notifies the Commission immediately upon changes to DWC's name, address, or telephone number;
- (j) DWC's intrastate interexchange service offerings shall be classified as competitive pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1108;
- (k) DWC's maximum rates for these services shall be the maximum rates proposed by DWC in its proposed tariffs. The minimum rates for DWC competitive services shall be DWC's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
- (l) In the event that DWC states only one rate in its proposed tariff for a competitive service, the rate stated shall be the effective (actual) price to be charged for the service as well as the service's maximum rate;
- (m) The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from DWC and has determined that its fair value rate base is zero. Accordingly, DWC's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by DWC and believes they are just and reasonable as they are comparable to several long distance carriers operating in Arizona and comparable to the rates DWC charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by DWC, the fair value rate base information provided should not be given substantial weight in this analysis;
- (n) If DWC desires to provide telecommunications services other than resold interexchange services, Staff recommends that DWC be required to file an Application with the Commission; and
- (o) In the event DWC requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.

5. Staff also recommends the CC&N granted to DWC be considered null and void after due process if DWC fails to: (1) docket conforming tariffs within 365 days from the date of an Order in this matter or 90 days prior to providing service to its first customer, whichever comes first; (2) notify the Commission as a compliance filing within 30 days of serving its first customer.

### **Technical Capability**

6. DWC states it plans to resell long distance services provided by PhoenixSoft in Arizona.<sup>2</sup> DWC intends to provide prepaid calling cards for international calling to end-users.<sup>3</sup>

<sup>2</sup> Staff Report at 2.

<sup>3</sup> Staff filing dated March 9, 2016.

7. Currently, DWC is authorized to provide, and is presently offering, resold interexchange long distance services in eleven (11) states that include California, Florida, Hawaii, Illinois, Indiana, Michigan, New York, Oklahoma, Pennsylvania, Texas, and Wisconsin.<sup>4</sup> While DWC included in its application North Carolina as a jurisdiction it was authorized to provide resold long distance services, through the course of Staff's investigation, it was discovered North Carolina had cancelled DWC's authority.

8. DWC's two executives average twenty-four (24) years of experience in the telecommunications industry.<sup>5</sup>

9. Staff believes DWC has the technical capabilities to provide its proposed services in Arizona.

#### **Financial Capabilities**

10. DWC provided unaudited financial statements for the twelve (12) months ending December 31, 2013, listing total assets of \$590,760; total equity of \$40,603; and a net income of \$150,743. For the twelve (12) months ending December 31, 2014, DWC listed total assets of \$151,084; total negative equity of \$9,390; and a net income of \$71,417.<sup>6</sup>

11. According to Staff, customers would be minimally affected if DWC experiences financial difficulties as there are a number of companies that provide resold or facilities-based interexchange telecommunications services.

12. Staff believes DWC has the financial capabilities to provide its proposed services in Arizona.

#### **Rates and Charges**

13. Staff states that in general, rates for competitive services are not set according to rate of return regulation. Staff believes that DWC's proposed rates are just and reasonable based on the rates of comparable long distance carriers and the rates DWC charges in other jurisdictions.<sup>7</sup> Staff states

---

<sup>4</sup> Staff Report at 2, footnote 1.

<sup>5</sup> Staff Report at 2.

<sup>6</sup> Id.

<sup>7</sup> Id. at 4.

1 that while it considered the fair value rate base ("FVRB") information submitted by DWC, that  
2 information was not afforded substantial weight in Staff's analysis.<sup>8</sup>

3 14. While the Commission allows competitive telecommunications service companies  
4 flexible pricing per A.A.C. R14-2-1109, companies are required to file a tariff for each competitive  
5 service that includes a maximum rate and an effective rate to be charged.

6 15. Pursuant to A.A.C. R14-2-1109, the rates charged for each service DWC proposes to  
7 provide may not be less than DWC's total service long-run incremental cost of providing service.<sup>9</sup>

8 **Complaint Information**

9 16. In response to section (A-11) of its application, DWC stated "Applicant nor any of its  
10 officers, directors, partners, or managers has been or are currently involved in any formal or informal  
11 complaint proceedings before any State or federal regulatory commission, administrative agency, or  
12 law enforcement agency." However, when verifying DWC's status in each jurisdiction, Staff learned  
13 DWC's authority to provide telecommunications services in North Carolina<sup>10</sup> had been canceled on  
14 October 5, 2011 for failing to file requisite utility reports and failing to pay mandatory regulatory fees.  
15 While DWC initially denied knowledge of the cancellation, in a docketed amendment to its application  
16 dated September 15, 2015, DWC stated that the North Carolina Utilities Commission ("NCUC")  
17 notified it of the certificate cancellation in October 2011. According to DWC, it filed the Regulatory  
18 Fee Report with the NCUC to rectify its omissions but neglected to include a reinstatement application  
19 which result in cancellation of DWC's certificate. DWC states it is in the process of reapplying for  
20 interexchange telecommunications authority with the NCUC.<sup>11</sup>

21 17. Also in the September 15, 2015 amendment to its application, DWC indicated that the  
22 Public Utility Commission of Texas ("PUCT") revoked DWC's authority to provide service and the  
23 Texas Secretary of State revoked DWC's authority to transact business in Texas due to DWC not being  
24 in good standing with the Texas Public Comptroller. DWC states that once it retroactively filed its  
25 Franchise Tax Reports and remedied its tax deficiencies, DWC's authority to do business in Texas was

26 <sup>8</sup> Staff Report at 4-5.

27 <sup>9</sup> Id. at 5.

28 <sup>10</sup> In DWC's original application with the Commission, it listed North Carolina as a jurisdiction in which DWC was  
authorized to provide telecommunications services.

<sup>11</sup> Staff Report at 3.

1 reinstated. The PUCT granted DWC's subsequent application for authority to provide interexchange  
2 services in Texas.<sup>12</sup>

3 18. In response to section (A-12) of its application, DWC stated "Applicant nor any of its  
4 officers, directors, partners or managers has been or are currently involved in any civil or criminal  
5 investigations, or had judgments entered in any civil matter, judgments levied by an administrative or  
6 regulatory agency, or been convicted of any criminal acts within the last ten (10) years." When  
7 verifying DWC's status with the California Public Utilities Commission ("CPUC"), Staff learned from  
8 the California Safety & Enforcement Division ("SED") that DWC had entered into a settlement  
9 agreement with SED after having been found to be providing prepaid calling card services in California  
10 without proper authority. DWC's subsequent application requesting CPUC authority to provide  
11 services was ultimately approved, along with the settlement agreement requiring a \$65,000 penalty.  
12 According to DWC's amendment filed on September 15, 2015, the CPUC granted DWC a Certificate  
13 of Public Convenience and Necessity effective June 11, 2015. DWC states, and Staff confirmed, that  
14 DWC is current on all surcharges and fees.<sup>13</sup>

15 19. According to Staff, DWC has retained a third-party compliance reporting service  
16 provider to prevent similar situations from re-occurring.<sup>14</sup>

17 20. Staff states that the Commission's Consumer Services Section reported that no  
18 complaints, inquiries, or opinions have been filed against DWC from January 1, 2011 to June 17,  
19 2015.<sup>15</sup> Staff further states that DWC is in good standing with the Commission's Corporations  
20 Division.<sup>16</sup>

21 21. Based on what Staff discovered through investigation of DWC's status in the multiple  
22 jurisdictions, it is appropriate to require DWC to file, as a compliance item in this docket, with its  
23 Annual Report, a list of all jurisdictions in which it operates and the type of services provided, as well  
24 as a list of any cancellations of authority, investigative actions, or disciplinary action taken, or ongoing,  
25

---

26 <sup>12</sup> Staff Report at 3.

27 <sup>13</sup> Id. at 4-5.

28 <sup>14</sup> Id. at 4.

<sup>15</sup> Id. at 2.

<sup>16</sup> Id.

1 in any other jurisdiction in which DWC operates or previously operated. This requirement shall remain  
2 in place until further Order of the Commission.

3 **Competitive Review**

4 22. Staff believes DWC's proposed services should be classified as competitive because  
5 DWC is not a monopoly provider; DWC does not control a large segment of the telecommunications  
6 market; there are alternative providers to DWC's proposed services; and DWC does not have the ability  
7 to adversely affect the interexchange markets in Arizona.<sup>17</sup>

8 23. Based on the above factors, Staff concludes that DWC's proposed services should be  
9 classified as competitive.

10 24. Staff's recommendations, as modified herein, are reasonable and should be adopted.

11 **CONCLUSIONS OF LAW**

12 1. DWC is a public service corporation within the meaning of Article XV of the Arizona  
13 Constitution, A.R.S. §§ 40-281 and 40-282.

14 2. The Commission has jurisdiction over DWC and the subject matter of the application.

15 3. Notice of the application was given in accordance with the law.

16 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a  
17 CC&N to provide competitive telecommunication services.

18 5. Pursuant to Article XV of the Arizona Constitution, as well as the Arizona Revised  
19 Statutes, it is in the public interest for DWC to provide the resold long distance telecommunications  
20 services as set forth in the application.

21 6. DWC is a fit and proper entity to receive a CC&N authorizing it to provide intrastate  
22 telecommunications services in Arizona, subject to Staff's recommendations as set forth herein.

23 7. DWC's fair value rate base is not useful in determining just and reasonable rates for the  
24 competitive services it proposes to provide to Arizona customers.

25 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it  
26 is just and reasonable and in the public interest for DWC to establish rates and charges that are not less  
27

28 <sup>17</sup> Staff Report at 5.

1 than DWC's total service long-run incremental costs of providing the competitive services approved  
2 herein.

3 9. Pursuant to A.R.S. § 40-282, the application in this matter may be approved without a  
4 hearing.

5 10. Staff's recommendations, as modified, are reasonable and should be adopted.

6 **ORDER**

7 IT IS THEREFORE ORDERED that the application of Dial World Communications, LLC for  
8 a Certificate of Convenience and Necessity to provide resold intrastate telecommunications in Arizona,  
9 is hereby approved, subject to Staff's recommendations as more fully described in Findings of Fact  
10 Nos. 4 and 5.

11 IT IS FURTHER ORDERED that Dial World Communications, LLC shall file, as a compliance  
12 item in this docket, with its Annual Report, a list of all jurisdictions in which it operates and the type  
13 of services provided, as well as a list of any cancellations of authority, investigative actions, or  
14 disciplinary action taken, or ongoing, in any other jurisdiction in which DWC operates or previously  
15 operated. This requirement shall remain in place until further Order of the Commission.

16 IT IS FURTHER ORDERED that Dial World Communications, LLC's telecommunications  
17 services are competitive in Arizona.

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...



IT IS FURTHER ORDERED that if Dial World Communications, LLC fails to comply with the Staff recommendation described in Findings of Fact No. 5, the Certificate of Convenience and Necessity granted herein shall be considered null and void after due process.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

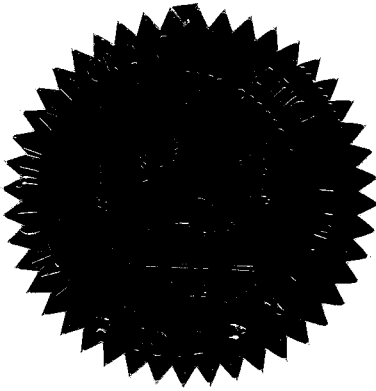
*[Signature]*  
CHAIRMAN

**EXCUSED**  
COMM. STUMP

*[Signature]*  
COMMISSIONER

COMMISSIONER

*[Signature]*  
COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 22nd day of April 2016.

*[Signature]*  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT *[Signature]*

DISSENT \_\_\_\_\_  
SP:rt

1 SERVICE LIST FOR:

DIAL WORLD COMMUNICATIONS, LLC

2 DOCKET NO.:

T-20921A-14-0390

3 Joanna Wallace  
4 MARSHLIAN & DONAHUE, LLC  
1420 Spring Hill Rd., Suite 401  
McLean, VA 22102

5 Janice Alward, Chief Counsel  
6 Legal Division  
ARIZONA CORPORATION COMMISSION  
7 1200 West Washington Street  
Phoenix, AZ 85007

8 Thomas M. Broderick, Director  
9 Utilities Division  
ARIZONA CORPORATION COMMISSION  
10 1200 West Washington Street  
Phoenix, AZ 85007

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28